



DOCKET NO.: ORGU-0023

Letter Re: Petition
PATENT
4/19/01



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of:

Smith et al.

Serial No.: **08/392,934**

Group Art Unit: **1644**

Filed: **October 28, 1996**

Examiner: **R. Schwadron**

For: **IMMUNOREACTIVE PEPTIDES FROM EPSTEIN-BARR VIRUS**

DATE OF DEPOSIT: April 10, 2001
I HEREBY CERTIFY THAT THIS PAPER IS BEING DEPOSITED
WITH THE UNITED STATES POSTAL SERVICE AS FIRST
CLASS MAIL, POSTAGE PREPAID ON THE DATE INDICATED
ABOVE AND IS ADDRESSED TO THE ASSISTANT
COMMISSIONER FOR PATENTS, WASHINGTON, DC 20231.


TYPED NAME: **Mark DeLuca**
REGISTRATION NO.: **33,229**

Assistant Commissioner
for Patents
Washington, D.C. 20231

**EVIDENCE AND STATEMENT ACCOMPANYING
PETITION TO WAIVE PAYMENT OF EXTENSION FEES,
OR IN THE ALTERNATIVE, TO RESET PERIOD
FOR RESPONSE DUE TO NON-RECEIPT OF OFFICE ACTION**

1. In response to the Office Action dated October 24, 2000, Applicants have submitted herewith a paper copy and CRF of the sequence listing in compliance with the Notice to Comply With Requirements For Patent Applications Containing Nucleotide Sequence and/or Amino Acid Sequence Disclosures.

2. The period for response set forth in the Office Action was one month or thirty days, whichever was longer. Extensions of time may be obtained by filing a petition accompanied by the extension fee under the provisions of 37 CFR 1.136(a).
3. Applicants filed two Powers of Attorney with Revocation on August 4, 2000, instructing that all future correspondence be directed to Mark DeLuca, Esq. at Woodcock Washburn Kurtz Mackiewicz & Norris LLP. However, the Office Action dated October 24, 2000 was mailed to the previous attorneys of record, Loeb & Loeb in Los Angeles, CA.
4. Pursuant to a routine file review, Applicants contacted the Patent and Trademark Office to ascertain the status of the present application and learned of the misdirected outstanding Office Action dated October 24, 2000. Examiner Schwadron provided a copy of the Office Action via facsimile on March 27, 2001.
5. Applicants petition for the waiver of the **five months** extension fee due to non-receipt of the Office Action dated October 24, 2000.
6. Enclosed please find:
 - (a) A copy of the facsimile transmittal received from the PTO forwarding the misdirected Office Action.
 - (b) A copy of the first page of the October 24, 2000, Office Action indicating that the correspondence address is: Loeb & Loeb, 10100 Santa Monica Blvd, 22nd Floor, Los Angeles, CA 90067-4164.
 - (c) Copies of the Powers of Attorney with Revocation filed on August 4, 2000, instructing that all future correspondence be sent to Mark DeLuca at Woodcock Washburn Kurtz Mackiewicz & Norris LLP, One Liberty Place - 46th Floor, Philadelphia, PA 19103 and a copy of the date-stamped postcard for same.
7. If the petition for waiver of payment of the extension fees is denied, Applicants request, in the alternative, that the period for response to the action mailed on October 24, 2000 be restarted.
8. This petition is being filed within two weeks of the receipt of the PTO action on March 27, 2001, via facsimile from Examiner Schwadron. A substantial portion of the response period set in the Action had elapsed on the date of receipt.

PETITION FEE/REFUND

The petition fee of \$130.00 (37 CFR 1.17(h)) is paid as follows:

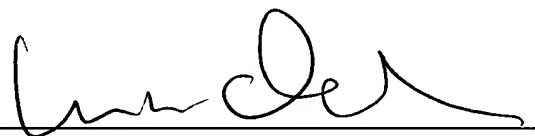
- ☐ Enclosed please find a check in the amount of \$130.00
- ☐ Please charge Deposit Account No. 23-3050 the sum of \$130.00. A duplicate of this petition is enclosed.
- ☒ Please charge Deposit Account No. 23-3050 for any fee deficiency or credit this account for any overpayment for this petition.

REQUEST FOR REFUND OF PETITION FEE

- ☒ As the delay was not the result of Applicants' actions, a refund of the petition fee submitted herewith is respectfully requested.

Date:

April 10, 2001



Mark DeLuca
Registration No. 33,229

Woodcock Washburn Kurtz
Mackiewicz & Norris LLP
One Liberty Place - 46th Floor
Philadelphia PA 19103
Telephone: (215) 568-3100
Facsimile: (215) 568-3439

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DOCKET NO.: ORGU-0023

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

RECEIVED

APR 16 2001

TECH CENTER 1600/2900

EP 1644

In Re Application of:

Smith, *et al.*

Serial No.: 08/392,934

Group Art Unit: 1644

Filing Date: October 28, 1996

Examiner: R. Schwadron

For: IMMUNOREACTIVE PEPTIDES FROM EPSTEIN-BARR VIRUS

DATE OF DEPOSIT: April 10, 2001

I HEREBY CERTIFY THAT THIS PAPER IS BEING DEPOSITED WITH THE UNITED STATES POSTAL SERVICE AS FIRST CLASS MAIL, POSTAGE PREPAID ON THE DATE INDICATED ABOVE AND IS ADDRESSED TO BOX SEQUENCE, ASSISTANT COMMISSIONER FOR PATENTS, WASHINGTON, DC 20231.

TYPED NAME: Mark DeLuca
REGISTRATION NO.: 33,229

BOX SEQUENCE

Assistant Commissioner for Patents
Washington DC 20231

**RESPONSE TO NOTICE TO COMPLY WITH REQUIREMENTS
FOR PATENT APPLICATIONS CONTAINING NUCLEOTIDE
SEQUENCE AND/OR AMINO ACID SEQUENCE DISCLOSURE**

In response to the "Notice to Comply With Requirements for Patent Applications Containing Nucleotide Sequence and/or Amino Acid Sequence Disclosures" dated October 24, 2000, a response to which is due April 24, 2001 (with extensions), enclosed herewith is:

- ☒ Communication and Evidence And Statement Accompanying Petition to Waive Payment of Extension Fees, Or in the Alternative, to Reset Period For Response Due to Non-receipt of Office Action
- ☒ Statement to Support Filing and Submission in Accordance with 37 CFR §§1.821 through 1.825;

- ☒ Substitute pages of the Sequence Listing;
- ☒ Substitute copy of the computer readable form of amended Sequence Listing;
- ☒ Copy of Notice to Comply With Requirements for Patent Applications Containing Nucleotide Sequence and/or Amino Acid Sequence Disclosures;

The Commissioner is hereby authorized to charge any underpayment associated with this communication or credit any overpayment to Deposit Account No. 23-3050. This sheet is attached in duplicate.

Date:

April 10, 2001

**Mark DeLuca**

Registration No. 33,229

Woodcock Washburn Kurtz
Mackiewicz & Norris LLP
One Liberty Place - 46th Floor
Philadelphia PA 19103
Telephone: (215) 568-3100
Facsimile: (215) 568-3439

RECEIVED BY THE UNITED STATES
PATENT AND TRADEMARK OFFICE

Paper: Transmittal Letter (in Dup w/US First Class mail certificate);
Power of Attorney with Revocation

Applicant(s): Smith et al.

Title: IMMUNOREACTIVE PEPTIDES FROM EPSTEIN-BARR
VIRUS

Serial No.: 08/392,934

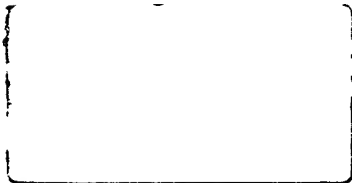
Filed: October 28, 1996

Docket No.: ORGU-0023

Date Sent:



DBE/MD/ERD/wright



Application No.: 08/392934**NOTICE TO COMPLY WITH REQUIREMENTS FOR PATENT APPLICATIONS CONTAINING NUCLEOTIDE SEQUENCE AND/OR AMINO ACID SEQUENCE DISCLOSURES**

The nucleotide and/or amino acid sequence disclosure contained in this application does not comply with the requirements for such a disclosure as set forth in 37 C.F.R. 1.821 - 1.825 for the following reason(s):

- ☒ 1. This application clearly fails to comply with the requirements of 37 C.F.R. 1.821-1.825. Applicant's attention is directed to these regulations, published at 1114 OG 29, May 15, 1990 and at 55 FR 18230, May 1, 1990.
- ☐ 2. This application does not contain, as a separate part of the disclosure on paper copy, a "Sequence Listing" as required by 37 C.F.R. 1.821(c).
- ☐ 3. A copy of the "Sequence Listing" in computer readable form has not been submitted as required by 37 C.F.R. 1.821(e).
- ☐ 4. A copy of the "Sequence Listing" in computer readable form has been submitted. However, the content of the computer readable form does not comply with the requirements of 37 C.F.R. 1.822 and/or 1.823, as indicated on the attached copy of the marked -up "Raw Sequence Listing."
- ☐ 5. The computer readable form that has been filed with this application has been found to be damaged and/or unreadable as indicated on the attached CRF Diskette Problem Report. A Substitute computer readable form must be submitted as required by 37 C.F.R. 1.825(d).
- ☐ 6. The paper copy of the "Sequence Listing" is not the same as the computer readable form of the "Sequence Listing" as required by 37 C.F.R. 1.821(e).
- ☒ 7. Other: See enclosed note

Applicant Must Provide:

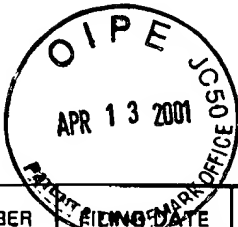
- ☒ An initial or substitute computer readable form (CRF) copy of the "Sequence Listing".
- ☒ An initial or substitute paper copy of the "Sequence Listing", as well as an amendment directing its entry into the specification.
- ☒ A statement that the content of the paper and computer readable copies are the same and, where applicable, include no new matter, as required by 37 C.F.R. 1.821(e) or 1.821(f) or 1.821(g) or 1.825(b) or 1.825(d).

For questions regarding compliance to these requirements, please contact:

For Rules Interpretation, call (703) 308-4216

For CRF Submission Help, call (703) 308-4212

For PatentIn software help, call (703) 308-6856



UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office
COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, D.C. 20231

SERIAL NUMBER	FILING DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NO.

EXAMINER	
ART UNIT	PAPER NUMBER

DATE MAILED:

Please find below a communication from the EXAMINER in charge of this application

This application contains sequence disclosures that are encompassed by the definitions for nucleotide and/or amino acid sequences set forth in 37 CFR 1.821(a)(1) and (a)(2). However, this application fails to comply with the requirements of 37 CFR 1.821 through 1.825 for the reason(s) set forth on the attached Notice To Comply With Requirements For Patent Applications Containing Nucleotide Sequence And/Or Amino Acid Sequence Disclosures.

The SEQ. listing filed 3/31/99 is defective because it does not list parent application 07/945280 in section <150>. This needs to be corrected in both the paper copy and CRF.

Applicant is given ONE MONTH, or THIRTY DAYS, whichever is longer, from the mailing date of this letter within which to comply with the sequence rules, 37 CFR 1.821 - 1.825. Failure to comply with these requirements will result in ABANDONMENT of the application under 37 CFR 1.821(g). Extensions of time may be obtained by filing a petition accompanied by the extension fee under the provisions of 37 CFR 1.136(a). In no case may an applicant extend the period for reply beyond the SIX MONTH statutory period. Direct the reply to the undersigned. Applicant is requested to return a copy of the attached Notice to Comply with the reply.

Any inquiry concerning this communication should be directed to Examiner Ron Schwadron, Ph.D., Art Unit 1644, whose telephone number is (703) 308-4680. Any inquiry of a general nature or relating to the status of this application should be directed to the Technology Center receptionist whose telephone number is (703) 308-0196.

RONALD B. SCHWADRON
PRIMARY EXAMINER
GROUP 1800 (600)

Ron Schwadron, Ph.D.
Art unit 1644



DOCKET NO.: ORGU-6023

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In Re Application of:
Smith et al.

Serial No.: 08/392,934

Group Art Unit: 1644

Filing Date: October 28, 1996

Examiner: R. Schwadron

For: IMMUNOREACTIVE PEPTIDES FROM EPSTEIN-BARR VIRUS

DATE OF DEPOSIT: April 10, 2001

I HEREBY CERTIFY THAT THIS PAPER IS BEING
DEPOSITED WITH THE UNITED STATES POSTAL
SERVICE AS FIRST CLASS MAIL, POSTAGE PREPAID
ON THE DATE INDICATED ABOVE AND IS
ADDRESSED TO THE ASSISTANT COMMISSIONER
FOR PATENTS, WASHINGTON, DC 20231.

TYPED NAME: Mark DeLuca
REGISTRATION NO.: 33,229

Assistant Commissioner
for Patents
Washington, D.C. 20231

COMMUNICATION

Transmitted herewith for filing in the above-identified patent application is:

- ☒ Response to the Notice to Comply with Requirements for Patent Applications
Containing Nucleotide Sequence and/or Amino Acid Sequence Disclosure Dated
October 24, 2000.
- ☐ An Amendment Supplemental to the Paper filed _____.
- ☒ Other: Evidence and Statement Accompanying Petition to Waive Payment of
Extension Fees, or in the Alternative, to Reset Period for Response Due to Non-
Receipt of Office Action.

FEE CALCULATION

Applicants acknowledge that a petition fee of \$130.00 (37 CFR 1.17(h)) and a five month extension fee of \$1890.00 are due. However, as provided in the Petition accompanying this Communication, Applicants respectfully request waiver of the extension fees and petition fee as a result of non-receipt of the Office Action dated October 24, 2000.

- ☒ Should it be deemed necessary, the Commissioner is hereby requested to grant an extension of time for the appropriate length of time, should one be necessary, in connection with this filing or any future filing submitted to the U.S. Patent and Trademark Office in the above-identified application during the pendency of this application. The Commissioner is further authorized to charge any fees related to any such extension of time to deposit account 23-3050. This sheet is provided in duplicate.
- ☒ The Commissioner is authorized to charge payment of the following fees and to refund any overpayment associated with this communication or during the pendency of this application to deposit account 23-3050. This sheet is provided in duplicate.
- ☒ The Foregoing Amount Due for Filing this Paper.
- ☒ Petition is hereby made under 37 C.F.R. 1.136(a) to extend the time for response to the Office Action of **October 24, 2000** to and through **April 24, 2001** comprising an extension of the shortened statutory period of **five** month(s).

SHOULD ANY DEFICIENCIES APPEAR with respect to this application, including deficiencies in payment of fees, missing parts of the application or otherwise, the United States Patent and Trademark Office is respectfully requested to promptly notify the undersigned.

Date: *April 10, 2001*



Mark DeLuca

Registration No. 33,229

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One Liberty Place - 46th Floor
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DOCKET NO. **08/392,934**

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In Re Application of:

Smith, et al.

Serial No.: 08/392,934

Group Art Unit: 1644

Filing Date: October 28, 1996

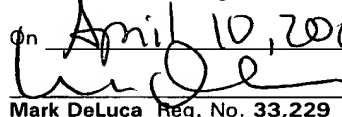
Examiner: R. Schwadron

For: Immunoreactive Peptides From Epstein-Barr Virus

BOX SEQUENCE

Assistant Commissioner for Patents
Washington DC 20231

I, **Mark DeLuca**, Registration No. **33,229** certify that this correspondence is being deposited with the U.S. Postal Service as First Class mail in an envelope addressed to the Commissioner of Patents and Trademarks, Washington, D.C. 20231.

On April 10, 2001

Mark DeLuca Reg. No. 33,229


**STATEMENT TO SUPPORT FILING AND SUBMISSION IN ACCORDANCE
WITH 37 CFR §§ 1.821 THROUGH 1.825**

- ☒ I hereby state, in accordance with the requirements of 37 C.F.R. §1.821(f), that the contents of the paper and computer readable copies of the Sequence Listing, submitted in accordance with 37 CFR §1.821(c) and (e), respectively are the same.
- ☒ I hereby state that the submission filed in accordance with 37 CFR §1.821(g) does not include new matter.
- ☐ I hereby state that the submission filed in accordance with 37 CFR §1.821(h) does not include new matter or go beyond the disclosure in the international application as filed.
- ☐ I hereby state that the amendments, made in accordance with 37 CFR §1.825(a), included in the substitute sheet(s) of the Sequence Listing are supported in the application, as filed, at pages _____. I hereby state that the substitute sheet(s) of the Sequence Listing does (do) not include new matter.

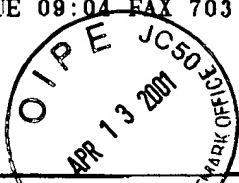
☐ I hereby state that the substitute copy of the computer readable form, submitted in accordance with 37 CFR §1.825(b), is the same as the amended Sequence Listing.

☐ I hereby state that the substitute copy of the computer readable form, submitted in accordance with 37 CFR §1.825(d), contains identical data to that originally filed.

Date: April 10, 2001


Mark DeLuca
Registration No. 33,229

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Facsimile: (215) 568-3439



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Woodcock Washburn Kurtz
Mackiewicz & Norris LLP**FAX**

TELECOPY/FACSIMILE TRANSMISSION

DATE: March 27, 2001

PAGES: 5 (at a particular concentration
(No. of pages including this cover sheet))**TO:** Emma Dailey/Woodcock, Washburn...
(ATTORNEY, AGENT OR FIRM)

08/392934

(ATTORNEY'S DOCKET NUMBER OR APPLICATION NUMBER)

215 564-8386
568-3439

(FAX/TELECOPIER NUMBER)

FROM: Ron Schwadron, Ph.D., Primary Examiner,**ART UNIT 1644**

GROUP 1600 FAX NUMBERS: (703)308-4242 OR (703)305-3014 for

FORMAL communications only.

EXAMINER'S OFFICE PHONE NUMBER: (703)308-4680